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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 28 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 255 of the) WT Docket No. 96-198
Telecommunications Act of 1996)
)
Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment)
By Persons with Disabilities)

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COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT) hereby files its Comments in response to the Commission's Notice of Inquiry in the captioned matter. SWBT will limit its comments to the resolution of complaints which may be brought under Section 255 of the Telecommunications Act of 1996.

Under Section 255(f), the Commission has "exclusive jurisdiction with respect to any complaint under this section." The Notice of Inquiry asks whether, in exercising this exclusive jurisdiction, the Commission should establish procedural rules for Section 255 complaints. SWBT believes that new procedural rules are unnecessary. The existing Section 208 informal and formal complaint provisions of Subpart E of Part 1 of the Commission's rules are sufficient to handle all complaints which may arise under Section 255.

Subsection (e) of Section 255 requires the Architectural and Transportation Barriers Compliance Board to develop guidelines "for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission." The Notice of Inquiry asks whether the Commission should adopt interim procedural rules for the filing of complaints while the

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Access Board is developing equipment guidelines. SWBT believes that no interim rules are necessary. Currently existing informal and formal complaint procedures are more than adequate to handle complaints arising under Section 255 during this interim period.

The Telecommunications Act of 1996 does not give the Commission authority to promulgate guidelines or rules to implement or enforce Section 255. Indeed, the enacted statute specifically omitted language contained in the Senate bill, requiring the Commission to develop regulations. For this reason, the Commission should resolve any complaints filed under Section 255 on a case-by-case basis, using the current informal and formal complaint rules. The Commission would be exceeding its authority by attempting to promulgate additional enforcement guidelines.

The Notice of Inquiry also requests comment on apportionment of liability. Specifically, the Commission wishes to know “how the responsibility for satisfying the statutory criteria should be apportioned between underlying manufacturers of network equipment or CPE, and service providers using the equipment.”¹ Imposition of joint liability for network equipment or CPE is not warranted by the statute. Section 255(b) provides:

“A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.”

The statute imposes the duty to make network equipment and CPE usable by individuals with disabilities only upon manufacturers.

Section 255(c) does impose a duty upon telecommunications providers:

¹ NOI at para. 39.

"A provider of telecommunications services shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable."

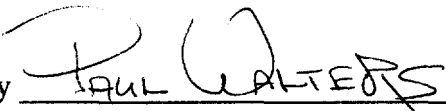
Thus, service providers are responsible only for ensuring that their service is accessible to and usable by individuals with disabilities, if such accessibility is readily achievable.

In sum, the statutory scheme imposes a duty regarding equipment only upon manufacturers, and a duty regarding services only upon service providers. The statute does not authorize joint liability. Should the Commission adopt a form of joint liability regarding equipment, it would do so without statutory authorization.

The Commission should follow the express language of Section 255. There should be no imposition of joint liability, nor should the Commission promulgate rules for enforcement. The current informal and formal complaint procedures are satisfactory.

Respectfully submitted,

SOUTHWESTERN BELL MOBILE SYSTEMS, INC.
SOUTHWESTERN BELL TELEPHONE COMPANY

By 
Robert M. Lynch
Durward D. Dupre
Mary W. Marks
J. Paul Walters, Jr.

Attorneys for
Southwestern Bell Telephone Company

One Bell Center, Room 3520
St. Louis, Missouri 63101
(314) 235-2507

October 28, 1996

CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing
Comments of Southwestern Bell Telephone Company in WT Docket
No. 96-198, have been served this 28th day of October, 1996
to the Parties of Record.

Liz Jensen
Liz Jensen

October 28, 1996

ITS INC
1919 M ST NW
RM 246
WASHINGTON DC 20554